IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Revision No.2499 of 2006

DATE OF DECISION: DECEMBER 7, 2006

Ajmer Singh and another

...PETITIONERS

VERSUS

The State of Punjab

...RESPONDENT

CORAM: HON'BLE MR.JUSTICE SATISH KUMAR MITTAL

Present: Mr. Nakul Sharma, Advocate,
for the petitioners.

...

The petitioners have filed this criminal revision against the order dated 23.9.2006 passed by the Additional Sessions Judge, Hoshiarpur, whereby the application filed by the petitioners, who are the accused, under Section 311 Cr.P.C. for recalling PW1 and PW2 for further cross-examination, has been dismissed, while observing as under:-

> "In nut-shell, the contention of the learned counsel for accused applicants is that some facts remained untouched during cross-examination of the aforesaid witnesses and an opportunity should be afforded to further cross-examine them. Even if the prosecution has closed its evidence, it is still open to the prosecution to invoke the powers of the court under Section 311 Cr.P.C. and to the similar effect the accused can also move application under Section 311 Cr.P.C. but it can only be allowed if the evidence of any witness appears to the court to be essential to the just decision of the cse and the court is empowered to summon or examine or recall or re-examine any such persons. But in the case in hand, instant application appears to have been filed with some ulterior motive. If the witnesses have not been cross examined on certain points when

they presented themselves for cross examination, the accused cannot be allowed to recall those witnesses to fill up lacunas, if any appeared in the statements of the witnesses. Moreover, if such application is allowed, there will be no end to such applications in each and every case. In fact, actual facts have not been disclosed in application by the accused. So the application being without any merits, is dismissed."

I do not find any illegality or infirmity in the aforesaid order.

Dismissed.

December 7, 2006 (SATISH KUMAR MITTAL)
vkg JUDGE